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ABSTRACT

This book provides a series of conceptual guidelines and models, predicated on Catholic tradition and law, for all those responsible for educational governance in Catholic elementary and secondary schools and in the various forms of parish religious education programs. Chapter 1, "Education and Governance," discusses Catholic educational governance in the larger context of Christian values and the mission of the Church. Chapter 2, "Governance and Law", discusses the respective roles of canon and civil law in the organization and operation of Catholic education. Topics discussed include the distinction, in the Code of Canon Law, between catechetics and Catholic schooling; the legislative, judicial, and executive power of the diocesan bishop; parish governance; schools and ecclesiastical structure; civil law and church property; contracts and employee relations; and Catholic school boards. Chapter 3 sets forth the following basic principles for church governance: (1) shared mission, (2) participation, (3) discernment of shared vision, (4) collaboration, (5) pastoral planning, (6) justice, (7) formal and informal relationships, (8) subsidiarity, and (9) accountability. Chapter 4 provides models by which groups within the church can structure educational governance. These include three models for single parish educational programs (a consultative board, a consultative committee formally related to the Parish Pastoral Council, and a board with limited jurisdiction); two models for inter-parish educational programs (a consultative board or a board with limited jurisdiction); and three models for private schools (a consultative board, a board with limited jurisdication, or an independent corporate board). Chapter 5, the conclusion, discusses the distinctions between power and authority in church governance. Appended are sample board constitutions and a glossary of terms. (TE)

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A Primer on Educational Governance in the Catholic Church

by
The CACE/NABE Governance Task Force

EA 019 793

National Catholic Educational Association

A Primer on Educational Governance in the Catholic Church

By the Governance Task Force
of the Department of Chief Administrators of Catholic Education
and the Boards Department of the NCEA,
the National Association of Boards of Education

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Preface

This book is the result of an expressed need. People in the church want to know the kinds of governance structures that are appropriate for Catholic education on the elementary and secondary levels in parishes and schools. Earlier, the Canon Law Society of America addressed the whole question of church governance from the perspective of conciliar documents and the 1983 Code of Canon Law. The Canon Law Society did not examine the question of educational governance in detail. The Department of Chief Administrators of Catholic Education and the Boards Department of the NCEA, the National Association of Boards of Education, decided to undertake that task.

The purpose of the book is to provide a clear statement concerning educational governance within the Catholic church on the elementary and secondary levels. The scope of the statement includes Catholic schools and parish religious education programs in their various forms. Further the book provides Catholic educators with a common frame of reference and a common vocabulary for educational governance.

The problem that motivated the formation of the task force was that some dioceses and parishes have established educational structures that do not efficiently serve the needs of Catholic education. Others have structures that are not in conformity with the laws and traditions of the church or sound educational management. This book presents a series of models that do fit Catholic tradition and law; it also examines the strengths and weaknesses of the those models.

The book was written to guide all those who are responsible for Catholic elementary and secondary education programs. These individuals include, first, those with immediate administrative responsibility—diocesan office and religious congregation personnel, principals, and directors of religious education. Second, the hope is that it will also be helpful to board members, pastors, and bishops.

Originally the task force planned to provide concrete examples throughout the text to illustrate the various models. After much discussion, the authors chose to limit the examples lest readers fo-

cus on the examples and miss the principles. The result is a more theoretical presentation than might be desired, but one that is relatively free of biases. It will provide the basis for more practical works on educational governance.

Previous NCEA publications on boards have dealt with these same issues. In presenting models, they identified "jurisdictional boards", "advisory boards," and "regulatory boards". This publication presents different models— "consultative boards" and "boards with limited jurisdiction." The task force members believe that "consultative" and "limited jurisdiction" models reflect a reality more consistent with conciliar documents and the new Code of Canon Law.

By the time the work of the task force was completed, it was impossible to identify the authorship of any one section. However, it is important to acknowledge the initial work of task force members. Jerome Porath and Roberta Tierney wrote the draft of the section on models; Arthur Bendixen and Ricardo Bass the section on Canon Law; Margaret Mary Kimmins the introduction; Mary Ann Gschwind the section on civil law; Dominic Kennedy a section on governance practices; Lourdes Sheehan and Stephen O'Brien the definitions, the sample constitutions and the conclusion.

The task force is grateful to the Canon Law Society of America for permission to use materials produced by one of its task forces. We are also grateful to Brother Robert F. Kealey, FSC, Rev. Thomas G. Gallagher, and Rev. Francis D. Kelly for their critiques of the manuscript. The work of the task force was funded by the Department of Chief Administrators of the NCEA.

J. Stephen O'Brien
Editor

CHAPTER 1

Education and Governance

INTRODUCTION

Central to the mission of the church is the work of Catholic education. It is an expression of the mission entrusted by Jesus to the church he founded. Through education the church seeks to prepare its members to proclaim the good news and to translate that proclamation into action. Since the Christian vocation is a call to transform oneself and society with God's help, the educational efforts of the church must encompass the twin purposes of personal sanctification and social reform in light of Christian values (*To Teach*, p.3).

As God's plan unfolds in the life of an individual Christian, that person grows in awareness that, as a child of God, no one lives in isolation from others. From the moment of baptism the person becomes a member of a new and larger family, the Christian community. Reborn in water and the Holy Spirit, the individual is joined to others in common faith, hope and love. This community is based not on force or accident of geographic location or even on deeper ties of ethnic origin. It is based on the life of the Spirit which unites its members in a unique fellowship so intimate that Paul likens it to a body in which each individual is a part and Jesus himself is the head.

Vatican Council II reaffirmed the nature of the church as a pilgrim people of God striving to grow in faith, to build community and to become a leaven and a sign of the kingdom of God in the world. The authenticity of that sign depends on all people—laity, re-

ligious, deacons, priests and bishops. As a leaven in the world, the Christian community should not be concerned only for itself. It must involve itself in seeking solutions to the many complex problems of the world, for example, war, poverty, racism and environmental pollution (*To Teach*, p.9)

GOD'S CALL TO HOLINESS

The Second Vatican Council clearly proclaimed a universal call to holiness. All people are included in God's call which they hear in the very web of their existence,in the events of the world, and in the complex decisions and conflicting values with which they struggle. They hear the call in the richness and fragility of sexual relationships, in the delicate balance between activity and stillness, presence and privacy, love and loss (*Called*, p.4).

Through baptism and confirmation men and women have been given rights and responsibilities to participate in the mission of the church. As sharers in life of Christ Jesus, all the baptized are called to play an active part in the life of the church. As their spiritual life grows, individuals share more intensely in the gifts of the Spirit with the whole people of God.

Within the universal call to holiness, the council also emphasized the leadership of the bishop in the church community:

> In order to shepherd the People of God and to increase its numbers without cease, Christ the Lord set up in his Church a variety of offices which aim at the good of the whole body. The holders of office, who are invested with a sacred power, are, in fact, dedicated to promoting the interests of their [brothers and sisters], so that all who belong to the People of God, and are consequently endowed with true Christian dignity, may, through their free and well-ordered efforts towards a common goal, attain to salvation (*Church*, 1964, #18).

Thus bishops and the priests who assist them are shepherds of the flock in the sense that they "are teachers of doctrine, ministers of sacred worship and holders of office in government" (*Church*, 1964, #20).

COMMUNITY

Leadership is critical to the formation and the transmission of a faith that can grow only in community. Since education is one of the

most important ways in which the church fulfills its commitment to the dignity of the person, community is central to educational ministry both as a necessary condition and as a desired goal. Thus education must teach men and women about God and themselves, and foster their love of God and one another.

The educational efforts of the church must therefore be directed to forming persons-in-community; for the education of the individual Christian is important not only to personal destiny but also to the destinies of the many communities in which the person lives (*To Teach*, p.4).

The parish community occupies a central role and place in the church in the United States. It is a community of faith, worship and love which exists to enable people to discover the meaning of the gospel and to live, proclaim, celebrate and structure the vision of the kingdom of God. How this happens in a particular parish depends on its leadership, community needs, and the cultural and socio-economic conditions of the times. Through baptism and confirmation, believers "are incorporated into Christ, are placed in the people of God, and in their own way share the priestly, prophetic and kingly office of Christ. . . ." They participate in the mission of the church (*Church*, 1964, #31). Although the specific form of participation in the church's ministry varies according to the gifts of the Holy Spirit, all who share in the work of the church are united to one another.

Ministry is participation in the communication of God's love for all people, a love fully revealed in Jesus Christ. Ministry is a response to mission, as mission is directed to the kingdom of God. The church exists to evangelize, proclaim, serve and celebrate the kingdom; thus the primary focus of ministry is the kingdom which the church serves (Hater, p.1).

GOVERNANCE AND MINISTRY

Church governance can be understood as a ministry. It is a ministry that serves the people of God by helping them maintain order to promote and protect the rights and obligations needed to carry out the mission Jesus gave to his church. Those who serve as ministers of governance have a distinct and unique responsibility to see that the rights and duties of individuals are affirmed within the institution and community of the church. Governance in itself is a means

of exercising rights and responsibilities in the service of others and in the service of one's own growth as a member of Christ.

Those who serve as ministers of governance in Catholic education programs provide for an environment for the teaching of doctrine, the building and experiencing of community, serving of others and the opportunity for worship. They model what they proclaim. They remember that parents are the primary educators of their children, that faith-filled, informed parents serve the total Christian community and the world, and that the social doctrine of the gospel must imbue their decisions for catechesis both in the parish and school settings.

Those involved in church governance recognize their responsibility to evangelize, to bring the gospel message to all people and places. Their purpose is to help every baptized member of the community accept responsibility for this mission. They are called to reflect on the gospel and its challenges, as well as documents issued by the Holy See and the National Conference of Catholic Bishops. They have a right to ongoing formation in faith and need to spend time reflecting on their own life and faith development. Those who govern are conscious that they act on behalf of the community they serve and seek patiently and conscientiously to represent the entire range of educational concerns (Sofield & Juliano, 1987).

Representative members of the community come together to work with staffs of dioceses, parishes, and private schools to provide direction for education programs. Such groups provide unity, direction and stability for educational efforts and the opportunity for dedicated people, lay, religious and clergy, to take their rightful places in the church's educational ministry (*Manual*, p.3)

CHAPTER 2

Governance and Law

INTRODUCTION

Catholic elementary and secondary education programs operate within the structures of both ecclesiastical and civil societies. Thus they are subject to both ecclesiastical and civil law. This chapter offers several considerations from both sources of law regarding the organization and operation of Catholic education. There is a particular emphasis on the roles of the different levels of governance within the church.

The first part of the chapter concerns the Code of Canon Law; the second part looks briefly at civil law. Because laws vary from state to state, only general principles on selected topics are given. Any changes in local governance structures may need to be reviewed by the diocesan or religious congregation attorney to ensure that they conform to civil law.

CANON LAW

The Second Vatican Council nourished and energized a major historical renewal in the Catholic church. The council reaffirmed the nature of the church as a pilgrim people of God striving to grow in faith, building community among themselves and being a leaven for the kingdom of God in this world. Seventeen years after the conclusion of the council, Pope John Paul II promulgated the revised Code of Canon Law. This revised code is a complement to the vision of

Vatican II and an inseparable partner to the documents of the council in the promotion of renewal in the church.

The Code of Canon Law is not a book of norms and rules for every single aspect of governance in the church. Rather, its approach to governance is to provide a framework. The code does not prescribe all that could be prescribed. It provides a few basic concepts and is mainly limited to the hierarchical governance of the church. For example, it discusses the roles of bishops and pastors as well as the obligations and rights of the people of God. In the area of education, the code only prescribes very general norms and leaves the establishment of specific laws and rules for the local churches.

Church leaders have the task of providing their local churches with specific rules and norms needed for the governance of their educational institutions. Therefore, anyone involved with educational governance needs a knowledge of the framework and the general guidelines of the Code of Canon Law in regard to the governance of Catholic elementary and secondary schools and to the governance of religious education at the diocesan and parish levels.

When canon lawyers speak of church governance, there are a number of principles which guide their understanding of this aspect of church life. Two of these fundamental principles have special relevance to governance and Catholic education, that is, subsidiarity and collaboration. The principle of subsidiarity states that that which can be accomplished by the initiative and industry of one group should not be assigned to or assumed by a higher organization or authority. The competence of individual ministers of governance and subsidiary organizations (for example, parishes, associations, schools) needs to be respected. The principle of collaboration states that the development of effective governance depends on the ability of people individually and collectively to work together within the system of governance.

In other words, these principles require that various members of the church assume responsibility for governance and that decisions concerning the governance of various structures within the church be made at the most appropriate level. For example, whenever possible, decisions regarding a parish school are most appropriately resolved by the parish(es) involved and not by the diocesan education department. In like manner, decisions regarding diocesan education programs are most appropriately decided by the diocesan education department and not by national personnel.

There are two basic systems in the church's approach to governance. The first is the executive system. Here the responsibility is placed in the hands of an individual who is supposed to work with other people in a collaborative or consultative manner. The individual, however, is responsible to take the initiative, come to the final decision, order the implementation, and hold people accountable for carrying out the decision.

The second is the collegial system. Here the same responsibilities are vested in a group, for example, the chapter of a religious congregation or a board of trustees, which counts on individuals to carry out tasks. Educational governance by the diocese and parish generally functions out of the executive system (Provost, 1985).

CATECHETICS

Although in the United States the word "catechetics" is often associated with religious education, the Code of Canon Law views catechetics in a much broader perspective, that is, as being an activity of the entire people of God under the direction of the bishop in the diocese and the pastor in the parish. The distinction is described in Canon 773:

> There is a proper and serious duty, especially on the part of pastors of souls, to provide for the catechesis of the Christian people so that the faith of the faithful becomes living, explicit and productive through formation in doctrine and the experience of Christian living.

Catechetics, therefore, is a pastoral activity. It is part of the ministry of the word. It is a ministry that is done under the direction of the bishop or pastor. It is also something that should involve all members of the parish community. It is certainly not limited to specialists, even though specially trained catechists do have a significant role to play in this ministry. In the code, "ministry of the word" is seen as the general framework for preaching, catechetics, and Catholic schools.

CATHOLIC SCHOOLS

Canon 795 introduces the section of the code that deals with Catholic schools, a distinct enterprise from the catechetical effort of the church:

> Since a true education must strive for the integral formation of the human person, a formation which looks toward the person's final end, and at the same time toward the common good of societies, children and young people are to be so reared that they can develop harmoniously their physical, moral and intellectual talents, that they acquire a more perfect sense of responsibility and a correct use of freedom, and that they be educated for active participation in social life (Canon 795).

Although the Code of Canon Law makes a clear distinction between catechetics and Catholic schools, it is important to bear in mind the particular context of the American Catholic church. Catechetics in the broad sense of the term is the responsibility of the entire church community. Religious education as it has evolved in more formal settings requires specially trained catechetical personnel. Because of these special needs, dioceses have taken on a larger role in the direction and support of parish religious education programs.

Catholic schooling is a professional activity which is done in service of parents. It is under a dual direction. First it is under the direction of the hierarchy; and second it is under the direction of the authorities in the school who have the professional competence to do so. Unlike catechetics, it is not something done by all members of the church. The great percentage of Catholic schools in this nation are parish based and are more directly the responsibility of the local pastor. Thus, in its direction and support of Catholic schools, the diocese must carefully recognize the role of the local pastor.

The Code of Canon Law highlights the role of the bishop in regard to Catholic schools. The bishop has a special responsibility and authority over Catholic schools within his diocese. As Provost (1985) writes:

> The bishop is to set the direction for education in the diocese within general norms that may or may not be established by the conference of bishops. He is also to exercise vigilance over faith and morals and have a quality control over teachers of religion in all schools in his diocese. These include those that are run by religious. The only exception would be a school run by religious only for its own members like a novitiate. But any school whatsoever that professes itself to be a Catholic school is subject to the vigilance of the bishop.

Although the educational mission of the diocese is determined in part by its connection with the universal church, it is also more clearly refined in its direction by the bishop and his direct involvement in those efforts.

DIOCESAN GOVERNANCE

The Code of Canon Law describes the authority of the diocesan bishop as legislative, judicial and executive in nature. The authority must be exercised either by the bishop himself or by someone with vicarious or delegated power. In the case of executive authority, the diocesan bishop depends greatly on others to exercise his leadership, such as vicars, pastors, or individuals especially delegated for a particular task, for example, superintendents of schools.

Legislative

In the case of legislative authority, the diocesan bishop cannot delegate his power to legislate. The bishop is the only legislator in the diocese. He cannot entrust any person or groups with the authority to enact legislation. Even a diocesan synod convoked to consider new legislation for the local church does not have the authority to legislate:

> The diocesan bishop is the sole legislator at a diocesan synod while the remaining members of the synod possess only a consultative vote; he alone signs the synodal declarations and decrees which can be published only through his authority (Canon 466).

When this prescription of Canon Law is applied to governance in the education structures of the church, it becomes clear that no individual (other than the diocesan bishop) and no board or commission can be given the authority to legislate. All education or school boards and commissions are therefore by reason of the law consultative in nature. (Even boards with limited jurisdiction are consultative at least in the area of religious education.) Boards and commissions may certainly propose and recommend legislation, but they cannot enact it.

Judicial

Mallett (1985) states that judicial governance is concerned with resolving disputes through canonical procedures. The bishop exer-

cises judicial governance through the diocesan tribunal or other judicial processes which he initiates personally. A judge appointed by the bishop has the power by law to resolve disputes and impose penalties (Canons 1419 and 1364-1369). Although in the past judicial processes were rarely used expect in matrimonial questions, bishops have begun to employ them in special circumstances. In many cases, penalties have been incurred.

Most disputes in the United States church are resolved through procedures established by executive governance. In conciliation, the bishop's conciliator tries to help the parties resolve the dispute. In arbitration, the parties bind themselves to a resolution by investing the arbitrator with the power to mandate a solution. Disputes arising from the exercise of executive authority are not subject to resolution by judicial process (Canon 1400.2).

Executive

Executive governance is exercised by the bishop both personally and through vicars, namely the vicar general and the episcopal vicars. A vicar general enjoys most of the rights and the duties of executive governance which the Code of Canon Law recognizes as the bishop's governing authority. An episcopal vicar enjoys the same authority as a vicar general for a "determined section of the diocese or in a certain type of business or over the faithful of a determined rite or over certain groups of persons" (Canon 476).

Of course the bishop must decide which rights and duties of executive governance are to be exercised by an episcopal vicar. For example, an episcopal vicar for education should automatically have the competence to exercise the bishop's authority as given in the law, as should the vicar general. As Mallett (1985) points out, "The law itself attaches certain rights and duties to the office of vicar. Therefore, when someone is appointed to this office, he automatically has the authority attached to the office."

Executive governance is also exercised by the bishop through delegation. As was noted above, the diocesan bishop possesses ordinary power in Christ's name. He is able to delegate part of that power to an individual in order to carry out his executive governance. Mallett (1985) sums it up this way:

> Some governance officers are not appointed as episcopal vicars. These officers, such as the superintendent of schools, might be understood as delegates of the bishop. The bishop has the right to delegate someone with certain rights and duties. In this case he

> must specify exactly what competence he wishes to give his delegate. It is not sufficient simply to provide the person with a title. Without a specific act of delegation, a superintendent of schools would not be able to exercise any juridic authority whatsoever, unless such authority came from the state by virtue, perhaps, of state accreditation.

The executive governance of a diocese can also be achieved through the bishop's consulting various members of the Christian faithful, especially consultative bodies established within the diocese. As Provost (1980) wrote, "The teaching of the Church is quite clear: there are to be consultative bodies, and bishops or others in charge of dioceses are to use them." Three consultative bodies seem to be of special importance for the executive governance of a diocese: the diocesan finance council (Canon 492); the presbyteral council (Canons 495-502), and the diocesan pastoral council (Canons 511-514). Mallett (1985) writes:

> Each of these three diocesan groups may have some impact on Catholic education. The pastoral council will likely understand Catholic schools as an important component of pastoral work. The presbyterial council may be involved in recommending diocesan legislation which would affect Catholic schools. Finally, the financial administration of schools is monitored by the diocesan finance council, and permission for some acts of extraordinary administration require its involvement. Yet, none of these groups is primarily concerned about Catholic schools and would not likely be competent to develop regulations or policies for the governance of a Catholic school system. Although the code does not propose a consultative body for educational purposes, it seems advisable that such diocesan bodies be constituted by bishops.

Additionally, the diocesan bishop may delegate to a board or a commission authority to enact diocesan policies (as distinct from diocesan laws) which direct education programs.

In writing about the different boards or commissions, Mallett (1985) makes a proper distinction between law and policy:

> In my judgment, binding norms or law should be issued by the bishop only in special cases where it is necessary to protect rights and promote the common good. This understanding of the limited nature of law is incorporated in the revised code.... Where it is a question of rights, laws may be necessary. To give one example: If a diocese instituted a retirement program for all school teachers, it would not suffice merely to exhort pastors and

> principals to cooperate with this program. The demands of justice would require the cooperation of all administrators so that equitable retirement benefits can be provided for all teachers.
>
> I understand a policy to be a statement which limits the administrative discretion proper to administrators. Arbitrariness in administration should be eliminated, but administrators need to exercise a certain flexibility in the application of standard criteria and procedures. Policies provide limitations to this administrative discretion. . . . I do not believe that policies should be understood as laws, since laws completely eliminate discretionary application unless the administrator obtains a dispensation from higher authority. Educational policies promulgated by competent diocesan authorities are often recognized as binding by civil courts.

PARISH GOVERNANCE

The revised Code of Canon Law greatly emphasizes the exercise of the leadership role of the pastor to whom the pastoral care of the parish is entrusted. The law restates the conciliar teaching that in exercising the care of souls parish priests and their assistants should carry out their work of teaching, sanctifying and governing in such a way that the faithful and the parish communities may understand that they are truly members both of the diocese and of the universal church (*Decree*, 30).

Among the duties of the pastor, then, is that of "governing, with the cooperation of other presbyters or deacons and the assistance of lay members of the Christian faithful" (Canon 519). Part of the pastor's governing role is to be administrator of the ecclesiastical goods of the parish. In his administration of these goods, the pastor must follow the regulations established by the Code of Canon Law as well as any diocesan legislation. Such administration becomes particularly noteworthy in the areas of finance and the observance of "civil laws pertaining to labor and social policy" (Canon 1286).

Mallet (1985) is particularly insistent that the pastor's role in the administration of a parish school must be respected as to the rights he enjoys and the duties to which he is obliged. As Mallett (1985) writes:

> I strongly suggest that diocesan legislation is necessary to clarify the relationship between the pastor and the parish school principal. Such legislation could identify those responsibilities which the principal should be empowered to fulfill, such as the employ-

> ment of teachers, the supervision and evaluation of teachers and other school employees, the formulation of policies for consideration by the school board or the budget and financial reporting and accounting of school operations. . . . The pastor would clearly have certain rights and duties in addition to the ultimate financial control. These rights and duties would involve the employment, supervision and evaluation of the principal, supervision of religious education and formation programs, and the approval of school disbursements in accordance with policies which he establishes.

As with the diocese, the governance of a parish can also be achieved through the pastor's consulting various members of the Christian faithful, especially consultative bodies within the parish. Three consultative bodies are of special importance for the executive governance of a parish.

Canon 537 requires the establishment of a finance council in every parish. Where a parish school exists, the need for ongoing consultation with the finance council becomes obvious and its relationship to the school is extremely important.

A second consultative body suggested by the code and described in Canon 536 is the pastoral council at the parish level. Its role is to give assistance in fostering pastoral activity. Certainly the education mission of the parish is involved in this pastoral activity.

Parish pastoral councils often establish an education committee as part of the larger parish pastoral council in order to provide ongoing communication between the parish school and the catechetical program, and the parish pastoral council.

SCHOOLS AND ECCLESIASTICAL STRUCTURE

Just as American society includes both individuals and corporations which are established under civil law, so the church includes individuals and corporations established under Canon Law. The term "juridic person" is the term given to the church corporation.

The parish school is part of the juridic person of the parish. A regional school may be part of the juridic person of one of the sponsoring parishes or of the diocese. A diocesan school may be a part of the juridic person of the diocese and a religious congregation's school a part of the juridic person of the religious order. All these types of schools may be established as separate juridic persons.

Other schools not part of a juridic person may be called Catholic if approved by competent church authority.

Canon Law requires that all juridic persons have administrators who are responsible for the material welfare of their institutions in accordance with Canons 1281-1288. Where the school is part of an existing juridic person, the responsibility of the canonical administrator must be respected as the ultimate authority. That person does not need to be a priest. Where the school is a separate juridic person, the canonical administrator is most often the principal of the school.

There are people who govern and those who cooperate with these ministers of governance, as well as those who receive within and from the governance system the capability and freedom to carry out rights and responsibilities. Governance in itself is a means of exercising rights and responsibilities in the service of others—and in service of one's own growth as a member of Christ.

Those who exercise governance have a responsibility to see that the rights and duties of people are affirmed within this institution and community called church. These rights and duties remain inviolable and inalienable. Thus the person who exercises governance is one who frees up and orchestrates the talents of others to promote the gospel message. Governance is not and cannot be an end in itself; rather, it is in service of persons (Canon Law, 1986).

CIVIL LAW AND CHURCH PROPERTY

A diocesan bishop exercises his authority in accord with Canon Law and in accord with all applicable civil law, federal, state, and local. In regard to church property, there are three major systems which states use to legislate ownership. They are: the bishop-as-trustee, the bishop-as-corporation-sole, and the corporation aggregate.

In the bishop-as-trustee method, the title to the property is vested in the bishop as trustee and the equitable title is vested in the members of the parish. (The state statutes that apply in this case are the ones that govern nonprofit or religious corporations.) The bishop-as-trustee holds the title for the benefit of the parish. Although he retains the right of supervision and the right to govern in accord with church law, the trustee can delegate the control of the property to the administrator of the parish.

In the bishop-as-corporation-sole method, the bishop holds absolute title to the church's property until he is transferred, retires, or dies. In civil law, the bishop can do anything he wishes with the property as long as it is in compliance with church law. The person who is appointed the new bishop becomes the corporation sole.

In the corporation aggregate method, there are two different ways the property may be owned. In the first, legal title is vested in incorporated trustees with equitable title vested in the non-incorporated parish. In the second, legal title is vested directly in the corporate officers of the parish who are elected and act as a board of directors or trustees. In this case, they are the agents of the corporation. The state statutes that apply here are the ones which govern a charitable trust or an aggregation of charitable trusts (Sheehan, 1981, pp. 10-13).

Religious congregations hold property in their own right according to the laws of the state. The articles of incorporation define the role and authority of the agents of the corporation. According to church law (Canon 1290), all administrators are bound to observe the civil laws of any given territory "with the same effects in a matter which is subject to the governing power of the Church, unless the civil regulations are contrary to divine law or canon law makes some other provision. . . ."

CONTRACTS AND EMPLOYEE RELATIONS

In another place (Canon 1286), church law states that administrators should "observe meticulously the civil laws pertaining to labor and social policy according to Church principles in the employment of workers . . . [and] are to pay employees a just and decent wage so that they may provide appropriately for their needs and those of their family."

Thus every diocese should have policies regarding contracts for all employees, both diocesan and parish, which clearly state the terms of the contract and the rights and responsibilities of the employee. These contracts are signed by an authorized agent of the corporation as recognized by the state. It is important to remember that only authorized agents of the corporation may enter into contracts on behalf of the corporation.

Dioceses also need policies in other personnel areas to protect both employer and employee rights. These policies would cover

such areas as compensation and benefits, leaves and absences, grievance and administrative review procedures.

Diocesan administrators should make parishes and schools aware of the laws governing the operation of private (including Catholic) schools within the state and should be familiar with diocesan laws and policies. Board members especially need to know the broad parameters of the law as it affects Catholic education. The courts would expect that a person who accepts membership on a board would have some basic understanding of the laws that apply to that school. (Dioceses and religious congregations need to provide liability insurance for officers, agents, and board members.)

Unlike public schools which are governed primarily by state statute and constitution, Catholic schools operate out of contract law. With the exception of an allegation of discrimination, the court will look at the provisions of the contract rather than at the protections of the constitution when Catholic schools are involved in litigation (Shaughnessy, 1987). A good source for this kind of information is the diocesan or religious congregation attorney.

SCHOOL BOARDS

Catholic and public schools have very different board structures, so different in fact that a comparison of the two is necessarily limited. The main similarity between public school boards and Catholic boards is that both are in some way involved in policy development. The differences include both the purposes of each board and the way in which the boards function. Public schools are governed by elected or appointed boards whose source of authority comes from the citizens through American democratic processes. Public education is a function of the fifty separate states. The general assembly of each state (by whatever name) has jurisdictional authority for public schools within the state in accord with its constitution and court rulings.

In contrast, the authority for Catholic schools is vested in the various corporations, for example, the diocesan bishop, the parish corporation, the religious congregation, which are responsible for ensuring that Catholic schools are organized and administered in accord with church and civil laws. Thus Catholic educational boards are not jurisdictional as are public school boards. However, as will be explained later, not being jurisdictional does not lessen their importance.

CHAPTER 3

Basic Principles for Church Governance

PRINCIPLES

Any discussion of educational governance depends on basic principles. The following principles were adapted from ones developed by the Task Force on Church Governance of the Canon Law Society of America.

1. Shared Mission

The governance of education programs should be faithful to the living sacramental reality of a communion of persons called to belief in Jesus Christ and to loving service in accordance with a shared understanding of the church's mission. Effective governance requires a consensus about the purpose of governance in relation to the mission of the church. The quality of governance is dependent on the nature of this understanding which, firmly rooted in the teachings of the Second Vatican Council, is in dialogue with contemporary theology.

2. Participation

All members of the educational community, both individually and in association, have the right and duty to participate and cooperate in the mission of the church according to each one's particular vocation and gifts. The organizations, structures, and methods of effective governance should include clergy, religious and laity in a participation appropriate to the issues involved and to the rights and duties of the persons affected.

Example:

In the parish, a board/committee is responsible to provide direction for the educational mission of the parish. This consultative group is composed of the pastor or his delegate and representative members of the parish community.

3. Discernment Of Shared Vision

This discernment is based on a clear assessment of the ability of an individual to dedicate himself or herself in love and in an effective manner to the spiritual welfare and growth of persons. Since the individuals are members of the parish community, their ministry should contribute to their own spiritual, personal, and professional growth.

Example:

A careful search and selection process is used in choosing the principal and/or director of religious education to give professional leadership and witness to the parish education programs.

4. Collaboration

The development of an effective educational ministry depends on the ability of persons individually and in association to collaborate. Collaboration depends upon appropriate knowledge of relational and organizational behavior, a personal identity secure enough to deal objectively with divisive issues and situations, and interpersonal and managerial skills.

Example:

Frequent meetings are held among those involved in the educational ministry of the parish community, including the pastor or his delegate, principal, and director of religious education.

5. Pastoral Planning

Effective education programs require planning in order to determine future directions within a context of prayerful discernment and openness to the Spirit. Organizational structures and processes should be designed to insure adequate participation of representatives and experts from the laity, religious and clergy in the following tasks: identification of needs; study of possible responses; adoption of a shared understanding of mission; formulation of concrete goals, objectives, and mission statements; development of programs and structures to which human and financial resources can be commit-

ted; and ongoing evaluation of the effectiveness of such decisions and actions.

Example:

One of the basic responsibilities of a diocesan education committee/board is to design a process of planning for the future.

6. *Justice*

Just treatment is a fundamental human right. Administrative discretion is structured by clear policies and procedures. Administrative procedures are maintained for the protection of rights and redress of grievances at both the parish and diocesan level.

Example:

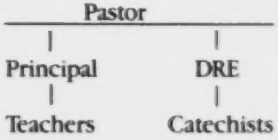
Dioceses, parishes, and religious congregations have educational personnel policies which provide recourse for individuals who perceive themselves treated unjustly.

7. *Formal And Informal Relationships*

Formal relationships include specifications of accountability and authority. Informal relationships involve communication, collaboration and social support.

Example:

Formal =



Formal =

Religious Congregation
|
Membership Corporation
|
Board Of Directors
|
Principal
|
Staff

Informal = One of the goals of a religious education program is to provide community building experiences for everyone involved, for example, DRE, parents, catechists, students

8. Subsidiarity

What can be accomplished by initiative and industry at one level is not assigned to or assumed by a higher organization or authority.

Example:

A parish school committee/board makes a determination about a school dress code or uniform without consulting or receiving the approval of the parish pastoral council.

9. Accountability

All those involved in educational ministry have the duty and right to work so that the message of Christ may reach all members of the community.

Example:

Boards and committees make periodic evaluations of set goals to assure that stated objectives have been accomplished.

CHAPTER 4

Models of Governance

There are many different ways that groups within the church can structure educational governance. The following are the models that best fit within the spirit of the documents of Vatican Council II and the Code of Canon Law. This chapter examines each type of consultative body with its variations and then comments on some of the advantages and disadvantages of each type.

SINGLE PARISH EDUCATIONAL PROGRAMS

There are three possible models:

Model I: A Consultative Board
Model II: A Consultative Committee formally related to the Parish Pastoral Council
Model III: A Board with Limited Jurisdiction

For each of these models, there are three different types of boards:

1. The School Board
2. The Religious Education Board
3. The Education Board

The differences are in the members of the administrative team and the board's scope of responsibilities.

1. The school board has an administrative team which is composed of the pastor and school principal and has a scope of responsibilities limited to the school.
2. The religious education board has an administrative team which is composed of the pastor and the director of religious education and has a scope of responsibilities limited to religious education programs.
3. The education board has an administrative team which is composed of the pastor, the school principal, the director of religious education and any other parish educational administrator and has a scope of responsibilities which encompasses all parish educational programming.

Model I: A Consultative Board

The consultative board is established by the pastor to assist him and the parish's education administrator(s) (principal, director of religious education, or both) in the governance of the parish education programs. Governance may be divided into two parts: policy and administration. The board's responsibilities are in policy matters; they are not responsible for administration or the details of administration.

The administration of the education programs is the responsibility of the administrative team. The team is composed of the pastor and the education administrator(s). The pastor, as chief administrator of parish programs, retains some administrative responsibilities and delegates the remaining to the administrator(s). The pastor as the employer of the administrator(s), hires, supervises and evaluates. The administrator, with the authority delegated as specified in the employment contract or job description, is responsible for the operation of the education program. This responsibility includes the employment, supervision and evaluation of staff, the establishment of education programming, and the evaluation and management of student behavior.

The establishment of policy is accomplished through the activity of the board. The board is composed of the administrative team and the members. When the board meets (administrative team and members) and agrees on a policy matter, the decision is effective and binding on all as long as the local policy is not in conflict with diocesan policy. The board is consultative in the following sense: the members cannot act apart from the administrative team and

cannot make decisions binding for the parish education program without the approval of the administrative team.

This kind of activity suggests a consensus model of decision making. The pastor and principal are to participate with the board in deliberations on policy matters. When disagreements between the pastor or principal and the board arise, attempts should be made to resolve them before the board reaches a conclusion. In this way the pastor is not placed in the position of having to negate board action; rather he is able through his participation to enact board action.

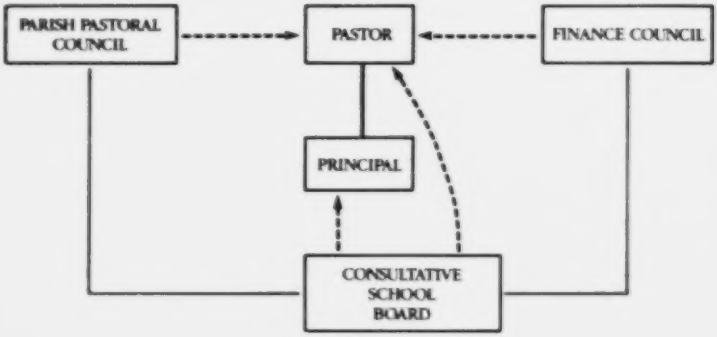
The board has responsibilities in the following areas:

a. Planning
(establishing a mission statement, goals, future plans)
b. Policy Development
(formulating policies which give general direction for administrative action)
c. Financing
(developing plans/means to finance the educational programs including tuition and development and fund-raising plans, to allocate resources according to a budget, to monitor those plans)
d. Public Relations
(communicating with various publics about the programs and listening to their needs and concerns, recruiting students and promoting the education programs)
e. Evaluation
(determining whether goals and plans are being met—not evaluating individual staff members, administrators or students—and determining the board's own effectiveness)

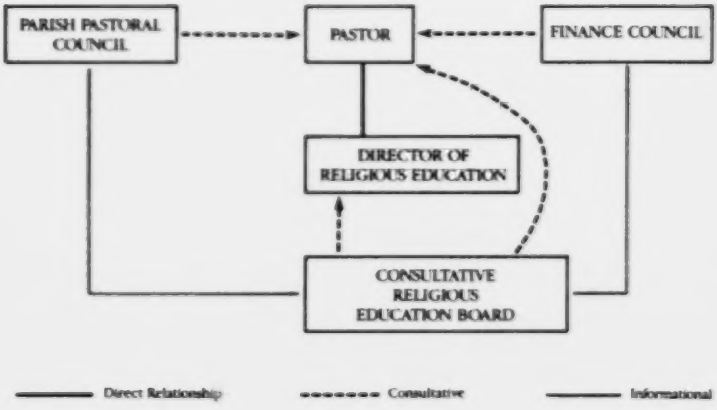
The board is related to three other groups in the parish setting: the parish pastoral council, the parish finance council, and (where there is a school) the parent organization.

a. The parish pastoral council is responsible for assisting the pastor in providing the establishment of parish goals and programming. The consultative board works in the context of the parish's mission statement, programs, and parish policies which are established by the pastor and the parish pastoral council. It is the responsibility of the board to bring to the attention of the parish pastoral council all those matters which

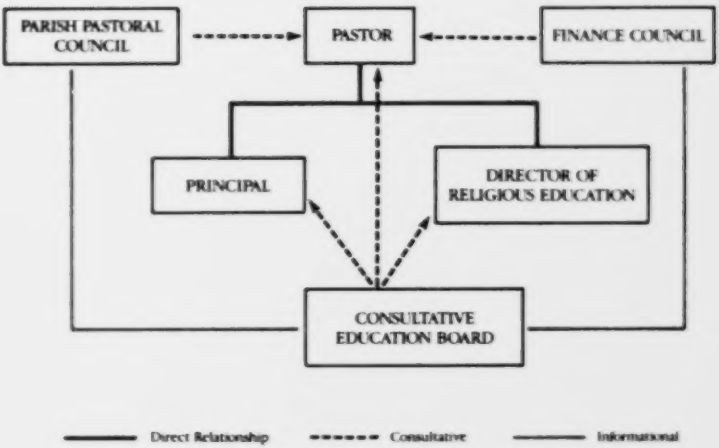
Single Parish
MODEL I
SCHOOL BOARD



MODEL I
RELIGIOUS EDUCATION BOARD



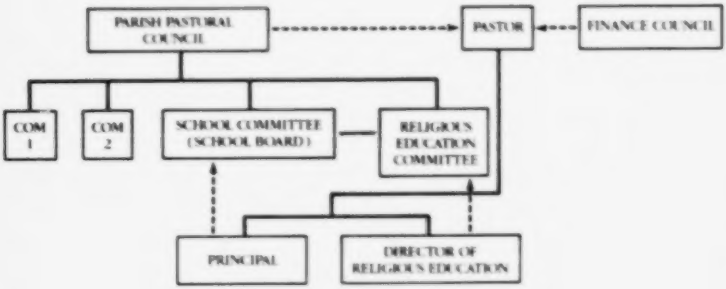
MODEL I
EDUCATION BOARD



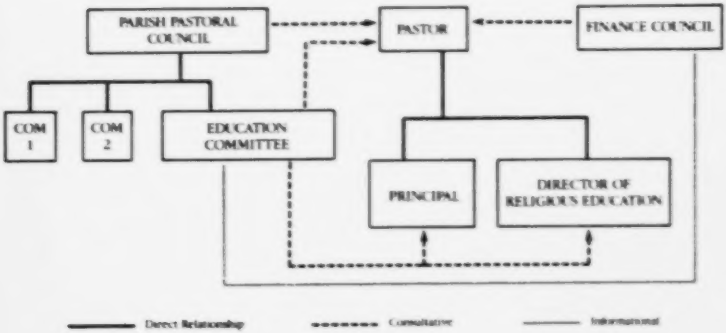
are broader than the education programs for which the board is responsible. The board should provide a regular means of communication with the parish pastoral council about educational programming, accomplishments, and needs.

b. The parish finance council is responsible for assisting the pastor in administering the temporal goods of the parish. The consultative board is governed by the financial policies which are established by the finance committee. It provides information about educational needs and programming to the finance committee and requests parish funds through the mechanism established by the parish finance committee. The board does not have responsibility for determining the amount of parish funds in support of the education programs; however, it is the primary advocacy group for parish funding of the education programs and it has responsibility for the effective use of parish funds allocated for educational purposes.

MODEL II
SCHOOL AND RELIGIOUS EDUCATION COMMITTEES



MODEL II
EDUCATION COMMITTEE



In general, the finance council is responsible for the total amount of money spent on education; the board is responsible for articulating the need and determining how the money is spent.

c. The school/parent organization is responsible for maintaining good communications between the home and school, for providing a vehicle through which parents can provide service to the school (for example, volunteers and fund-raising), for of-

fering a mechanism for parent education, and for serving as a structure for political action when needed (for example, letter writing, phone calls, visits to legislators). The board works closely with the officers of the parent organization in order to understand more fully parent needs and concerns. It works with parent fund-raising groups to coordinate the overall financing programs of the school. It uses the communication mechanism of the parent organization to report to school families about board activities.

Model II: A Consultative Committee Formally Related to the Parish Pastoral Council

All elements outlined above for Model I apply except for the constitution of the committee and its relationship to the parish pastoral council. The consultative committee is constituted as part of the parish pastoral council. The relationship with the parish pastoral council is established in a more formal fashion. This is frequently done in two ways: interlocking membership and formal reporting mechanisms.

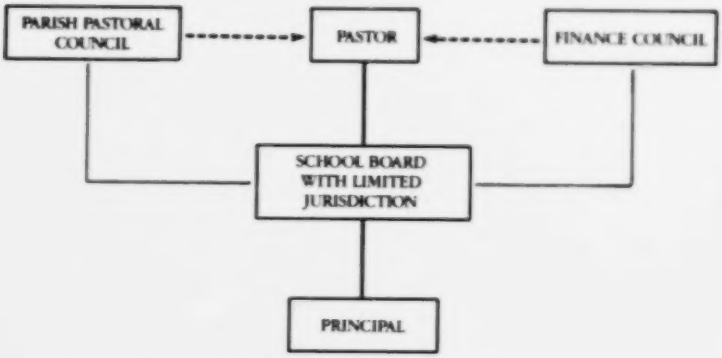
Model III: A Board with Limited Jurisdiction

The board with limited jurisdiction is constituted by the pastor to govern the parish education program, subject to certain decisions which are reserved to the pastor and the bishop. In constituting this kind of board the pastor should clearly specify in writing the areas in which the board has responsibility for governance. Normally, the board would have responsibility for all areas of school governance, except for ensuring the Catholicity of the education programs and exercising those responsibilities for religious education and the stewardship of temporal goods which are specifically reserved to the pastor by Canon Law (Canon 532).

The educational administrator(s) is responsible for the administrative operation of the education program(s). This includes the employment, supervision, and evaluation of staff, the establishing of educational programming, and the evaluation and management of student achievement and behavior. The educational administrator(s) is an employee of the board. The board hires, supervises, evaluates and can terminate the educational administrator(s).

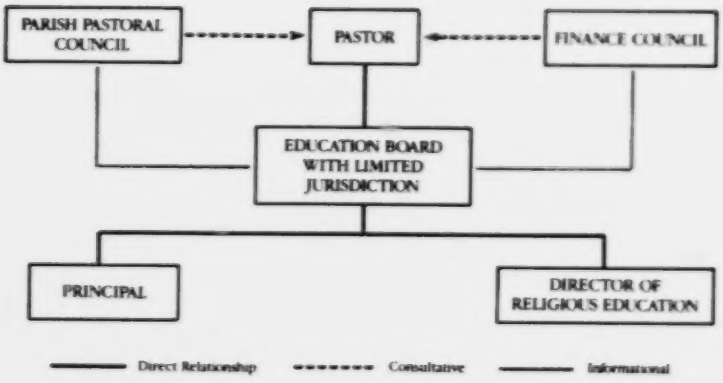
Note: Unless the education program is separately incorporated from the parish, the parish is understood as the legal employer of the principal. Accordingly, the pastor, or some person clearly

MODEL III
SCHOOL BOARD



(A religious education board with limited jurisdiction follows this same model)

MODEL III
EDUCATION BOARD



identified as having delegated authority, must sign the employment contract with the administrator. Additionally, even where the pastor has established a board with limited jurisdiction, he may want to reserve the final decision of the employment of the administrator to himself. In that instance, even though the pastor may give final approval to the employment of the administrator, that person is still responsible to and evaluated by the board.

The decisions of the board are final and binding on all parties in the school. However, their responsibility extends to those areas clearly defined in their constitution. In those areas which are reserved for the decision of the pastor, the board's role is consultative. They are to prepare recommendations for the pastor's consideration, but do not have authority to make a final decision.

The board's areas of responsibilities are the same as those outlined for the consultative board. The board's relationship with the parish pastoral council, the parish finance committee, and the school parent organization is the same as those outlined for the consultative board.

Further Reflections on Single Parish Program

Participative decision-making is the preferred model within the church. If done correctly, it never diminishes the authority of the pastor, the principal, or the director of religious education. Although it reflects Vatican II ecclesiology, gives people in the parish a sense of ownership, and helps delineate the lines of accountability, it also requires that the pastor and the administrator spend the time necessary to make this decision- making process work. Just as shared decision-making helps educate the people of the parish, it also educates the pastor and the administrator.

Whenever possible, a consensus process is preferred over all others. Although time consuming, the rewards usually far outweigh the inconveniences. At the very least, some form of rules of order should govern every meeting.

The following observations are relevant to specific models. The consultative board model requires that all agree to work toward a consensus approach. The pastor must be willing to spend the time necessary for the board to reach decisions. This model of boards rarely works effectively unless the pastor or his delegate is present for the meetings. The administrator(s) must be prepared to work with skill and understanding with the group in planning and

developing educational policies. For the consultative board to be effective, it must be seen as an effective means to further education and not as just the burden of another meeting.

In the consultative committee that is part of the parish pastoral council, education becomes a part of the overall parish pastoral thrust. The committee is responsible for all of education in the parish which has the advantage of bringing together the school and religious education programs. The danger is that pressing needs in religious education or the school will force the board to spend too much time on one or the other. It can be difficult to find people willing to serve on a committee which has such broad concerns.

The board with limited jurisdiction has the best possibility for having the lines of authority clearly established which in turn leads to specified relationships. This kind of board also has the best chance of making the members feel a sense of ownership. The danger is that the pastor can become detached from the work of the board. There is also the danger that the education program (in most cases the school) may become removed from the rest of the community; they will tend to see the program as "the board's problem."

From the pastor's perspective, the extremes here are clericalism and lay trusteeism. In the consultative models, the pastor can have excessive control. In the board with limited jurisdiction, he may abandon the program to the board.

In regard to schools, no model can be recommended that separates a single parish from the school. The education programs are not separate from the juridic person of the parish. Thus the school of a single parish should not separately incorporate.

INTER-PARISH EDUCATIONAL PROGRAMS

There are two inter-parish models:

Model I: A Consultative Board
Model II: A Board with Limited Jurisdiction

The three types of boards listed for single parish education programs may also be used here—school board, religious education board, education board. The board best suited to local needs is the one preferred. For example, if there is an inter-parish school and individual parish religious education programs, the parishes will select the school board type.

Model I: A Consultative Board

The functions of the consultative board for inter-parish education programs are the same as those for single parish programs except for the role of the pastors, the composition of the membership, and the relationship to parish groups. The pastors of the parishes sponsoring the education programs should select one pastor to be *the* pastor for the education program. This pastor functions as a member of the administrative team, as outlined above for a single parish. Further, it is the responsibility of the selected pastor to provide information about board activities to the pastors of the other parishes, and to secure their approval, as may be necessary, for major decisions (for example, the selection of the educational administrator, the approval of the annual budget, the approval of sacramental preparation programs). Normally, the selected pastor would be the pastor of the parish which has the facility which hosts education programs.

The members of the board are selected from the several parishes which sponsor the education programs. Membership should be proportionate to the services delivered to the parishes. The board must maintain a relationship with the parish pastoral councils of all of the sponsoring parishes. This will require some formal recognition of communication between the board and the several parish pastoral councils.

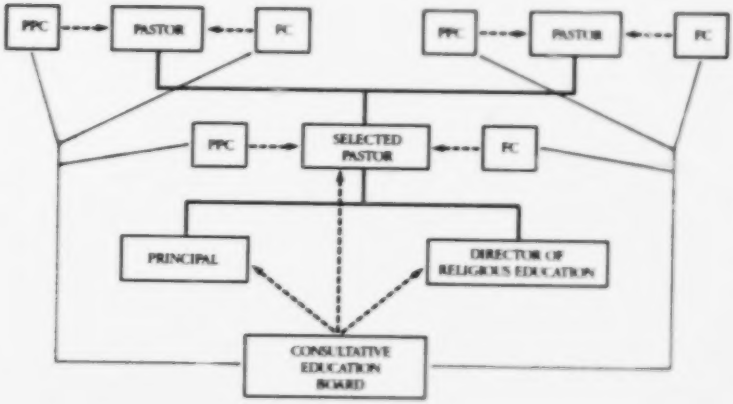
Model II: A Board with Limited Jurisdiction

The role and function of a board with limited jurisdiction is the same as that for the single parish, except for the role of the pastors, the composition of members, and relationship with parish pastoral councils.

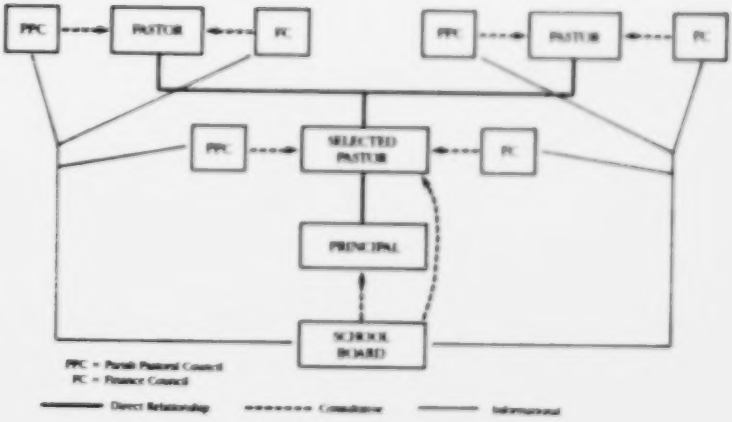
The pastors of the parishes sponsoring the education programs need to specify formally what authority is given to the board and what decisions are reserved to the pastors. Further, they need to establish a mechanism through which the board may submit advisory recommendations to the pastors and a mechanism for arriving at agreement among the pastors on those recommendations.

The members of the board are representative of the sponsoring parishes. Membership are reasonably proportionate to the services received by the parishes. The board needs to maintain formal communication with the parish pastoral councils of all the parishes served.

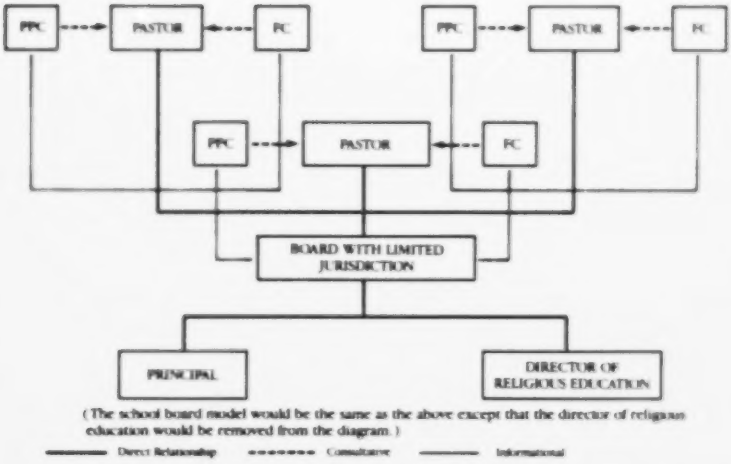
Interparish
MODEL I
EDUCATION BOARD



MODEL I
SCHOOL BOARD



Interparish
MODEL II
EDUCATION BOARD



(The school board model would be the same as the above except that the director of religious education would be removed from the diagram.)

Further Reflections on Inter-Parish Programs

A major concern with inter-parish programs is the possible separation of the program from the parishes. The pastors and other parish leaders must be kept involved and interested in the program. Although this concern applies to all education programs, the most experience in this area has come from schools. The further a program gets away from the parish, the less ownership the parish has. Often the parish which physically houses the inter-parish school looks on it as its own while the other parishes have lesser feelings of ownership. It is especially important in these cases that there be a clear delineation of the rights and responsibilities of each of the parishes, a genuine means for each parish to enjoy the benefits of the programs, an agreed upon way for each to participate in the governance, and perceived financial equity. Too much independence can lead the people connected to the school to think of it as a private school.

The inter-parish education program may be a part of the juridic person of one of the sponsoring parishes. In this case the pastor of that parish has the canonical rights and obligations for the administration of the inter-parish education program. In order to avoid the confusion that could result from such an arrangement, an inter-parish education program could be established as a separate juridic person. The statutes establishing the separate juridic person would define the role of the pastors, the board (whether consultative or with limited jurisdiction), and of the administrator (the principal or the religious education director) who has the canonical rights and obligations for administering the inter-parish education program. Besides being a separate juridic person, an inter-parish school may be separately incorporated under the laws of the state.

PRIVATE SCHOOL PROGRAMS

There are two models for private schools which are owned by a religious congregation:

Model I: A Consultative Board
Model II: A Board with Limited Jurisdiction

There is one model for an independent Catholic school:

Model III: A Corporate Board

Model I—A Consultative Board

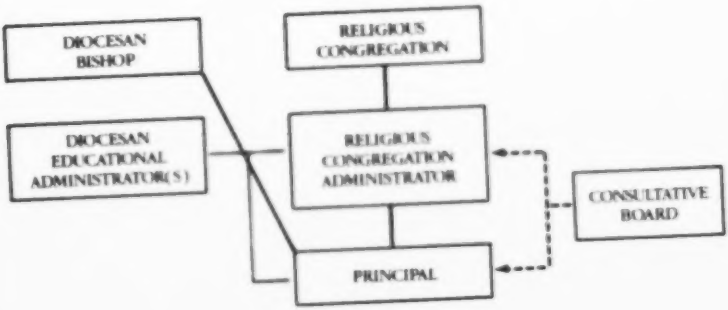
The board is constituted by the religious congregation which owns the school. The role and function of the board is the same as that for the single parish and inter-parish programs. The board relates to the administrator of the religious congregation and to the school principal.

Model II—A Board with Limited Jurisdiction

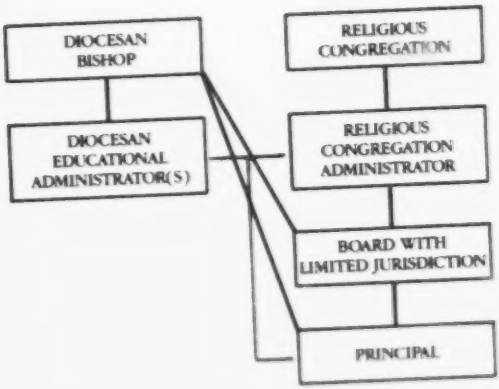
This kind of board is constituted by the religious congregation which owns the school. The board is delegated with the responsibility for the governance of the school, except for those matters and decisions which are reserved to the administrator of the religious congregation and to the diocesan bishop. The role and function of the board is the same as that for single parish and inter-parish programs.

Private School Models

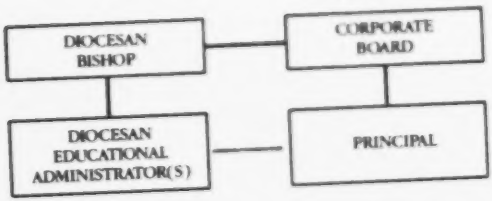
MODEL I



MODEL II



MODEL III



Direct Relationship ------- Consultative ——— Informational

Model III—A Corporate Board

The corporate board is organized by individual persons desiring to operate the school under the laws of the state in which the school is located. The corporate charter and bylaws specify the authority and responsibilities of the board. To be identified as a Catholic school, the corporate board must seek the recognition of the school as Catholic by the diocesan bishop. The corporate board is the ultimate governing authority in all areas, with the exception of those reserved to the authority of the diocesan bishop by Canon Law.

The corporate board hires, supervises and evaluates the principal who is responsible for the administration of the school. Authority and responsibilities are delegated by the corporate board to the school administrator.

Like the other models, the corporate board exercises responsibility in areas of planning, policy development, financing, public relations and evaluation.

Further Reflections on Private School Program

The private school owned by a religious congregation may be part of the juridic person which is the religious congregation. In such a case, the administrator of the religious congregation has the canonical rights and obligations for administering the school. The private school owned by a religious congregation can also be established as a separate juridic person. In such a case, the statutes establishing the separate juridic person would define the role of the administrator of the religious congregation, the diocesan bishop, the board (whether consultative or with limited jurisdiction) and the administrator (who could be the principal) who has the canonical rights and obligations for administering the school (who could be the principal).

The independent Catholic school could be established by the diocesan bishop as a juridic person. In such a case, the statutes would specify the role of the diocesan bishop, the board, and the principal.

A private school owned by a religious congregation may be separately incorporated under the civil laws of the various states. Normally this incorporation takes the form of the two- tiered membership/board of directors corporation.

DIOCESAN SCHOOL PROGRAMS

There are two models for a diocesan school program.

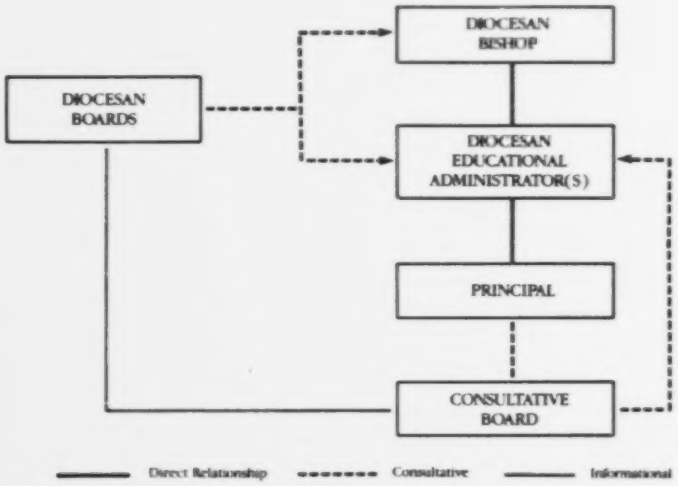
Model I: A Consultative Board
Model II: A Board with Limited Jurisdiction

Model I: A Consultative Board

A consultative board is constituted by the diocesan bishop or his representative. The role and function of the board is the same as that for the previous models. The board relates to the administrator for the diocesan school program and to the principal of the school.

The administrator for the diocesan school is the diocesan administrator to whom authority is delegated by the diocesan bishop for the governance of the program. This diocesan administrator may be the vicar for education, secretary for education, superintendent of schools, or some other diocesan administrator responsible for education programming.

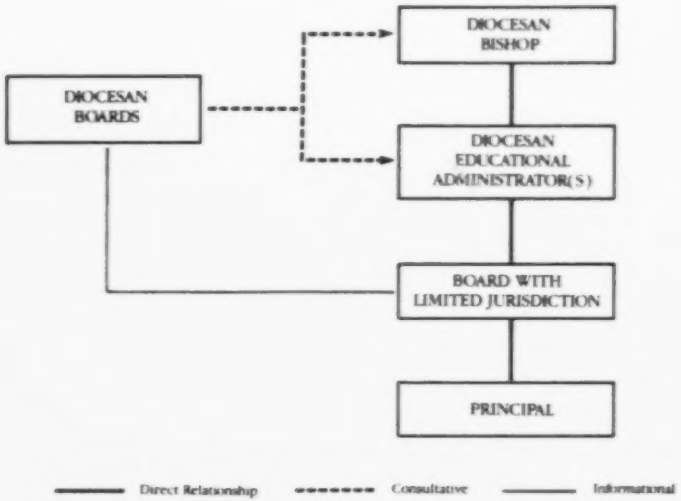
Diocesan School Model
MODEL I



Model II: A Board with Limited Jurisdiction

The board with limited jurisdiction is constituted by the diocesan bishop and is delegated with the responsibility for the governance of the school, except for those matters and decisions which are reserved to the diocesan bishop or his representative. In all other ways, the role and function of the board with limited jurisdiction is similar to those of the preceding models.

MODEL II



Further Reflections on the Diocesan School Program

A diocesan school may be part of the juridic person which is the diocese. In this case, the diocesan bishop or his representative has the canonical rights and obligations for administering the school. A diocesan school may also be established as a separate juridic person. In this case, the statutes would define the role of the diocesan bishop, the board (whether consultative or with limited jurisdiction), and the administrator (who could be the school principal)

who has the canonical rights and obligations for administering the school. A diocesan school may be separately incorporated under the civil laws of the various states.

DIOCESAN EDUCATIONAL GOVERNANCE

There are two possible models:

Model I: A Consultative Board
Model II: A Board with Limited Jurisdiction

The two models presented here include for the sake of clarity a moderator of the curia and a vicar for education. Some dioceses have one or both of them; some do not. The Code of Canon Law does not mandate either of these two roles. Whether a particular diocese will benefit from these functions is a judgment of the local bishop. If neither exists, the diagram should be modified to show that the diocesan administrator reports directly to the diocesan bishop.

There are three types for each board model:

1. The Diocesan School Board
2. The Diocesan Religious Education Board.
3. The Diocesan Education Board.

The differences are in the diocesan education administrators who work with the board and with the board's scope of responsibilities.

1. The school board would work primarily with the superintendent of schools (and vicar for education if there is one) and has responsibility for school programs.
2. The religious education board would work with the diocesan director of religious education (and vicar for education if there is one) and have responsibilities for religious education programming.
3. The diocesan education board would work with the superintendent, the diocesan director of religious education, and other diocesan educational administrators, and would have responsibility for all educational programming in the diocese.

In diocesan governance, the education program may have combinations of similar or different types of boards based on the above models.

Model I: A Consultative Board

The consultative board is established by the diocesan bishop to assist him and his educational administrators in the governance of education programs. Governance may be divided into two parts: policy and administration. The board's responsibilities are in policy matters; they are not responsible for administration or the details of administration.

Administration of education programs is the responsibility of the diocesan administrators. These administrators may include a moderator of the diocesan curia and a vicar for education. Every diocese will also have an administrator responsible for schools and for religious education programs. The normal titles for these positions are the superintendent of schools and the diocesan director of religious education.

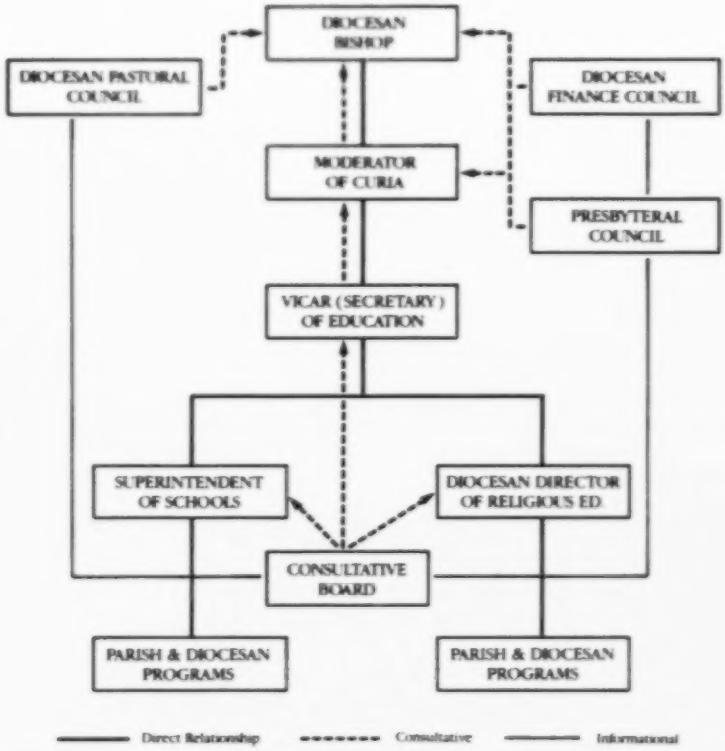
All diocesan administrators are appointed by the diocesan bishop. They hold administrative authority either by virtue of office or by delegation from the bishop. He is responsible, through mechanisms which he establishes, for the supervision and evaluation of these administrators. The diocesan educational administrators have in writing clearly delineated authority for the supervision and direction of the education programs for which they are charged.

Diocesan educational policy is established through the activity of the board. The board is composed of the appropriate diocesan educational administrators and board members. This board formulates diocesan policy for the approval of the diocesan bishop. Each diocese has a clearly outlined procedure for the enactment of diocesan policy by the diocesan bishop. For example, the bishop may enact or reject suggested policy by signing the minutes of the board with appropriate comments. The authority to enact policy in the name of the bishop may be delegated to a diocesan education administrator as determined by a diocesan policy. The board members, apart from the authority of the diocesan bishop, cannot make the policy binding on the diocese or its parishes.

The board's responsibilities are in the following areas:

a. Planning
(establishing a mission statement, goals, future plans)

Diocesan Educational Governance
MODEL I



b. Policy Development
(formulating policies which give general direction for administrative action)

c. Financing
(developing plans/means to finance the education programs including tuition and development and fund raising plans, to allocate resources according to a budget, to monitor those plans)

d. Public Relations
(communicating with various publics about the education programs and listening to their needs and concerns, and promoting the education programs)

e. Evaluation
(determining whether goals and plans are being met—not evaluation of individual staff members and administrators—and determining board's own effectiveness)The board is related to other consultative bodies in diocesan administration. These are the diocesan finance council, the presbyteral council, the diocesan pastoral council. The board is subject to diocesan policies which are formulated through these consultative bodies and approved by the diocesan bishop. It is the responsibility of the consultative board to keep these other diocesan groups informed about diocesan education programming and need. The board calls to the attention of the appropriate diocesan consultative group diocesan needs which are broader than those presented by educational programming.

Model II: A Board with Limited Jurisdiction

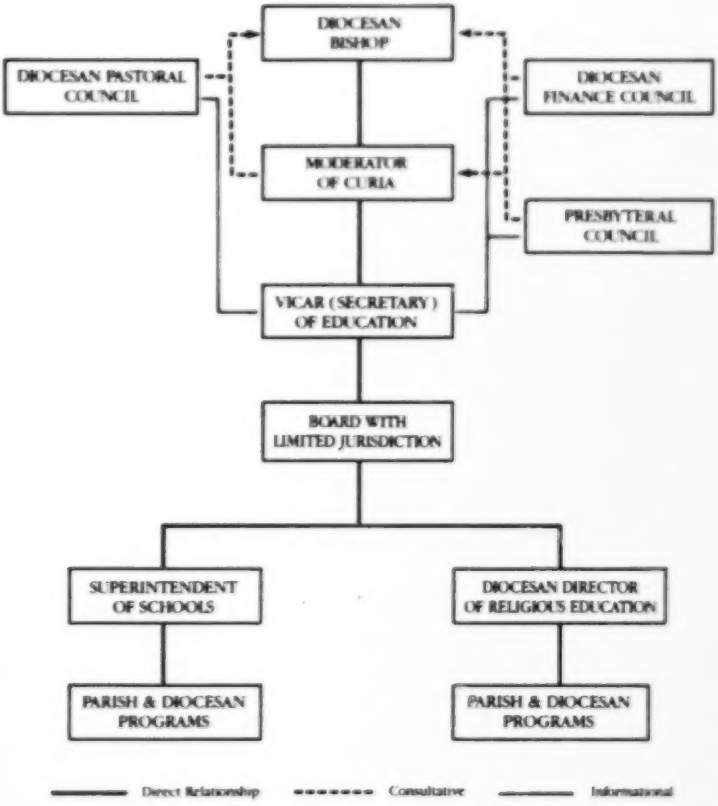
The board with limited jurisdiction is constituted by the diocesan bishop to govern diocesan educational activities, subject to certain decisions which are reserved to the diocesan bishop. In constituting the board the bishop clearly specifies in writing the areas in which the board has responsibilities for governance. Normally, the board would have responsibilities for all areas of educational governance, except those in religious education reserved to the bishop and the stewardship of temporal goods specifically reserved to other groups by Canon Law.

The decisions of the board are final and binding on all parties; however, their responsibility extends only to those clearly defined areas in their constitution. In those areas which are reserved for decision by the appropriate diocesan administrator, the board's role is consultative. They are to prepare recommendations for consideration, but they do not have final authority to make a decision.

The diocesan educational administrators are responsible for the administrative operations of education programs at the diocesan level. These administrators are employees of the board. They are hired by the board, supervised and evaluated by the board.

Note: Unless the education program is separately incorporated from the diocese, the diocese is understood as the legal employer of the diocesan administrators. Accordingly, the bishop, or some person clearly identified as having a delegated authority, must sign the employment contract with the diocesan administrators. Additionally, even where the bishop has established a board, he

Diocesan Educational Governance
MODEL II



may want to reserve the final decision on the employment of the diocesan administrators to himself. In that instance, even though the bishop may give final approval to the employment of the diocesan administrators, they should be directly accountable to the board for all supervision and evaluation purposes.

The board's areas of responsibility are the same as those outlined for the consultative board. The board's relationship with other diocesan consultative bodies is the same as those outlined for the consultative board.

Further Reflections on Diocesan Educational Governance

Diocesan educational governance and its programs could be part of the juridic person which is the diocese. However, the diocesan bishop may decide to form a separate juridic person for educational purposes. The statutes establishing the separate juridic person would define the role of the diocesan bishop, the diocesan educational administrators, the board (whether consultative or with limited jurisdiction), and the individual possessing the canonical rights and obligations for administering the program. Diocesan education programs may be separately incorporated under the laws of the various states.

In two major educational documents, *To Teach as Jesus Did* and in *Sharing the Light of Faith*, the National Catechetical Directory, the bishops of the United States have clearly stated a preference for a unified diocesan board of education. The advantage of a board that would have the responsibility for all aspects of education is that it witnesses to the one educational mission of the church. It also promotes cooperation among the various diocesan educational personnel, facilitates total administrative and financial planning, and discourages "turf building," thus modeling the principles of Vatican II collaboration (*To Teach*, 1973, #141, and *Sharing*, 1979, #238b).

From another perspective, the bishops' vision may be difficult to implement. This kind of board may not be the most efficient use of time. Because schools require special attention and effort often connected to finances, religious education programs do not receive the kind of attention they deserve. Because religious education programs and schools attract people with different interests and skills, particular needs may not be met.

If there are separate boards in a diocese, it is recommended that they cooperate closely with one another for the good of the

church educational ministry. For example, they could meet together twice a year; or their executive committees could meet several times each year. The diocesan bishop has the responsibility of ensuring that the office personnel in schools and religious education model the kind of cooperation held up as the ideal to boards. Only if diocesan officials model collaboration will separate boards cooperate effectively.

CHAPTER 5

Conclusion

This book is about the appropriate structures for governance of the church's educational ministries. The role of structures in any organization is to allow for the orderly interaction of people so that their rights might be respected and their responsibilities fulfilled. These structures have evolved from both organizational principles and legal requirements. They provide a means for governing the human relationships necessary for the church's schools and religious education programs.

The analyses of the structures offered here reveal where authority is vested and how that authority is distributed and used throughout the church's educational programs. The clear authority of the bishop and pastor is noted. Also noted is the authority given to their delegates in specific areas. Sometimes boards have delegated authority (boards with limited jurisdiction); sometimes they help designated ecclesiastical officials exercise their authority (consultative boards).

In any discussion about authority, it is important to recall the distinction between authority and power. Authority is the rights and responsibilities that come to a person through position or law. Power is the ability to get someone else to behave in a certain way.

People in authority often have power. In the civil government, they have power because they can get the police to enforce their legitimate commands. In the church, people in authority have power because church members believe that people in authority

should be obeyed and because those in authority in the church often control the church's money. However, people with no authority can have immense power. There are people who have significant influence on the government who have no authority at all. There are people in the church who have no authority, but who have influence and therefore power.

The concepts of power and authority are certainly relevant to a discussion on governance in the church, but they must be nuanced by the gospel's call to service and by the church's tradition. Vatican II stated, for example, that the office of bishop "is, in the strict sense of the term, a service, which is called very expressively in sacred scripture a *diakonia* or ministry" (*Church*, 1964, #24). If bishops are servants, then by extension all who have authority and power in the church must also be servants of the kingdom of God and of one another.

In spite of these distinctions, some may protest that unless full authority is turned over to lay boards, there is only an imitation of shared decision-making. That argument lacks force for two reasons. First, when authority is shared with either model of board, the exercise of authority becomes more public. The greatest abuses of authority, those that deny the rights of others, happen when authority is exercised in secret. The more public the exercise of authority, the more the people affected by that authority can influence the decisions. When a consultative board meets with the pastor and principal to discuss an educational issue, there is an immediate effect on their possible decisions.

Second, the very establishment of a board conveys to the board members a significant amount of power and influence. Although the board may not have the authority to make the final decisions, they are likely to have power over what that final decision will be. For these two reasons, the models presented here are genuine models of shared decision-making.

However, organizational structures have another purpose beyond guiding the flow of authority and balancing power and influence. They maximize the benefits of a collaborative effort. Groups are called into existence because one or more people can complete a task better than just one. The sharing of administrative duties among the pastor, director of religious education, and school principal is one example. The collective wisdom which emerges for a board decision is another. The ultimate effect is the improvement of education programs. The structures are not established for their

own sakes, but with a view to their positive effect on bettering the programs they govern.

From both of these perspectives, then, these models of governance must be understood and further developed in practice. They are proposed to guide the orderly interaction of people so that individual rights are respected and responsibilities fulfilled, and to produce a positive effect which improves education.

The discussion has returned to its beginning. The educational ministry of the church flows from its mission and depends on community. That community needs structures, but what it needs most of all is people committed to the gospel of Jesus who love one another.

APPENDIX A

Sample Board Constitutions

PARISH/INTERPARISH/DIOCESAN

Consultative Board

Article I. Name of Organization

Article II. Purposes and Functions

The board is established by the pastor (selected pastor in case of inter-parish education programs) to assist him and the parish's educational administrator (principal, director of religious education) in the governance of the education program. When the board meets as administrative team and members, and agrees on a policy matter, the decision is effective and binding on all. The board is consultative in the following sense: the members cannot act apart from the administrative team and cannot make decisions binding for the parish education program without the approval of the administrative team.

The board has responsibilities in the following areas:

a. Planning
b. Policy development
c. Financing
d. Public Relations
e. Evaluation

Article III. Relationships with other groups

A. Parish Pastoral Council
B. Parish Finance Council
C. Parent Organization
D. Diocese

Article IV. Membership

States requirements for membership, consecutive terms, selection/election process.

Article V. Nominations and Elections

Provides rules for nominations and elections/selection, length of terms, reasons for removal of a member, provisions for filling vacancies, and commissioning.

Article VI. Officers

States what officers the board is to have, their duties, manner of election and term of office, re-election rules, consecutive terms, and commissioning.

Article VII. Meetings

Indicates schedule of meetings, quorum needed, presiding person if chairperson is absent, notification of agenda before meeting, rules of procedure and decision-making process, open meetings, minutes (taking, keeping, distributing), recording and dissemination of board decisions, provisions for closed session, provision for suspension of board rules for operation.

Article VIII. Executive Committee

Outlines the composition of executive committee, its duties and meeting times.

Article IX. Standing and Ad Hoc Committees

Specifies the functions of committees, the appointment of chairpersons and criteria for membership, the purposes and responsibilities of committees.

Article X. Amendments

Procedures governing revision and/or amendments to the constitution, notification time, votes required or decision-making process.

Article XI. Rules of Order

Method used that will ensure maximum participation resulting in consensus, if possible, and thereby avoiding the win/lose situation. Procedure to be used in decision-making when pastor is not present to participate in board meeting.

Board with Limited Jurisdiction

Article I. Name of Organization

Article II. Purposes and Functions

The board is constituted by the pastor (selected pastor in the case of an inter-parish education program) to govern the parish education program, subject to certain decisions which are reserved to the pastor and bishop. In constituting the board the pastor clearly specifies in writing the areas in which the board has responsibility for governance. Normally, the board would have responsibilities for all areas of school governance, except for ensuring the Catholicity of the education programs and exercising those responsibilities for religious education and the stewardship of temporal goods which are specifically reserved to the pastor by Canon Law. (Canon 532)

Article III. Relationships

A. Educational Administrator (Principal and Director of Religious Education)
B. Parish Pastoral Councils
C. Parish Finance Councils
D. Parent Organization

Article IV. Membership

States requirements for membership, consecutive terms, selection/election process.

Article V. Nominations and Elections

Provides rules for nominations and elections/selections, length of terms, reasons for removal of a member, provisions for filling vacancies, and commissioning.

Article VI. Officers

States what officers the board is to have, their duties, manner of election and term of office, re-election rules, consecutive terms, and commissioning.

Article VII. Meetings

Indicates schedule of meetings, quorum needed, presiding officer if chairperson is absent, notification of agenda before meeting, rules of procedure and decision-making process, open meetings,

minutes (taking, keeping, distributing), recording and disseminating of board decisions, provisions for closed session, provision for suspension of bylaws.

Article VIII. Executive Committee
Outlines the composition of executive committee, its duties and meeting times.

Article IX. Standing and Ad Hoc Committees
Specifies the function of committees, the appointment of chairpersons and criteria for membership, the purposes and responsibilities of committees.

Article X. Amendments
Procedures governing revision and/or amendments to the constitution, notification time, votes required.

Article XI. Rules of Order
Method used that will ensure maximum participation resulting in consensus, if possible, and thereby avoiding the win/lose situation. Procedure to be followed in seeking approval of pastor and bishop for those matters which are reserved to them.

BOARDS FOR PRIVATE CATHOLIC SCHOOLS

Consultative Board

The board is constituted by the religious congregation which owns/sponsors the school. The role and function of the board is the same as that for the single parish and inter-parish programs. The board relates to the administrator of the religious congregation and to the school principal.

Board with Limited Jurisdiction

A board with limited jurisdiction is constituted by the religious congregation which own/sponsors the school, and it is delegated with the responsibility for the governance of the school, expect for those matters and decisions which are reserved to the administrator of the religious congregation and to the diocesan bishop. Many religious congregations use a two-tiered governance structure (members and directors) according to this sample model:

Article I. Name of Corporation

Article II. Seal

Article III. Principal Place of Business

Article IV. Purpose

Article V. Membership

Section 1. Corporate Membership and Qualifications (Usually synonymous with the elected leadership of the congregation)

Section 2. Chairperson

Section 3. Place of Meetings

Section 4. Annual Meeting

Article VI. Board of Directors

Section 1. Powers

Subject to the limitations of the articles of incorporation and the bylaws of the corporation, and of the laws of the State of _____, and in accordance with the philosophy and objectives of the _____ (religious congregation), corporate powers shall be exercised by and under the authority of, and the business and affairs of this corporation shall be controlled by a board of directors.

Section 2. Number of Directors

Section 3. Election and Term (elected by Members)

Section 4. Board Officers

Section 5. Vacancy

Section 6. Annual Meeting

Section 7. Quorum

Section 8. Regular Meetings

Section 9. Special Meetings and Notice of Meetings

Section 10. Action Without Meetings Section ll.Transactions Requiring Membership Approval (reserved powers)

Notwithstanding anything in these bylaws to the contrary, neither the board of directors of this corporation nor any officers or employees thereof may take any of the following actions without the authority first had and obtained of the members of the corporation, to wit:

a) Merger, consolidation or dissolution of the corporation;

b) Amendment or restatement of the articles of incorporation of the bylaws of the corporation;

c) Approval of operating and capital budgets;
d) Aggregate borrowing for any purposes in excess of $_____ For the purpose of this sub-paragraph the term aggregate borrowing includes but is not limited to lease agreements and contracts of sale;
e) Purchase, sale, lease, disposition, hypothecation, exchange, gift, pledge, encumbrance or mortgage of any asset with the value in excess of $_ not previously included in the capital budget;
f) Purchase, sale, lease, disposition, hypothecation, exchange, gift, pledge, or encumbrance of any real property asset. (Canon 638)
g) Appointment or removal of the president (usually the principal);
h) Appointment of the independent auditor;
i) Transactions outside the ordinary course of business.

Section 12. Removal

Article VII. Corporate Officers
Section 1. Officers
Section 2. Election and Terms of Officers
Section 3. President
The person appointed chief administrative officer (principal) by the corporate membership shall be president of this corporation and shall be the direct representative of the board of directors in the management of the school. (additional information on authority and duties of president should be included)
Section 4. Vice-President
Section 5. Secretary
Section 6. Treasurer

Article VIII. Committees

Article IX. Indemnification

Article X. Affiliated Organizations

Article XI. Amendments

The Corporate Board

The corporate board, (often named Board of Trustees), is organized by individual persons or a religious congregation desiring to operate the school under the laws of the state in which the school is located. The corporate charter and bylaws specify the authority and responsibilities of the board. To be identified as a Catholic school, the corporate board must seek the recognition of the school as Catholic by the diocesan bishop. The corporate board is the ultimate governing authority in all areas, with the exception of those reserved to the authority of the diocesan bishop by Canon Law.

The sample constitution given for a board with limited jurisdiction for private schools contains information which could be used in a constitution for a corporate board.

APPENDIX B

Glossary of Terms

Board

A board (committee/council/commission) is a body whose members are selected or elected to participate in decision-making in education at the diocesan, regional, inter-parish, or parish level.

Jurisdictional. A jurisdictional or autonomous board is one which not only legislates but controls. It has final authority and total jurisdiction, including all areas of educational policy and administration as well as the legislative power to enact policy. There are no jurisdictional education boards in the Catholic church.

Board with Limited Jurisdiction. A board with limited jurisdiction has power limited to certain areas of educational concern. It has final but not total jurisdiction. For example, since the diocesan bishop has jurisdiction over the religious education and Catholicity of all schools including private schools, the board of trustees of a private school is a board with limited jurisdiction rather than total jurisdiction.

Consultative. A consultative board is one which cooperates in the policy-making process by formulating and adapting but never enacting policy. This type of board is more in keeping with shared decision-making in the Catholic church because of the consultative status of the diocesan presbyteral council and the diocesan finance council. The constituting authority states those areas where the board is to be consulted. Such action is usually made effective by the board's constitution.

Regulatory. A regulatory board is one which enacts or uses existing rules and regulations to govern the operation of its institution. This type of board is considered administrative rather than policy- making or consultative.

Catholic School

"That school is considered to be Catholic which ecclesiastical authority or a public ecclesiastical juridic person supervises or which ecclesiastical authority recognizes as such by means of a written document." Canon 803.1

Diocese

"A diocese is a portion of the people of God which is entrusted for pastoral care to a bishop with the cooperation of the presbyterate so that, adhering to its pastor and gathered by him in the Holy Spirit through the gospel and the Eucharist, it constitutes a particular church in which the one, holy, catholic and apostolic Church of Christ is truly present and operative." Canon 369

Diocesan Bishop

"Bishops are called *diocesan* when the care of a diocese has been entrusted to them; all others are called *titular*." Canon 376

Diocesan School

A diocesan school is a school operated and financed in some manner by the diocese.

Diocesan Director of Religious Education

The diocesan director of religious education is the person delegated by the bishop to exercise power over religious education in the diocese. The extent of the power is determined by the mandate of the diocesan bishop.

Director of Education

A director or secretary of education, whether or not that person is a priest, has delegated authority in the area of education. The extent of that authority is determined by the mandate of the diocesan bishop. (See Canon 476)

Inter-parish School

An inter-parish school is a school operated and financed by more than one parish.

Juridic Person

"Juridic persons are constituted either by prescription of law or by special concession of the competent authority given through a de-

cree; they are aggregates of persons or of things ordered towards a purpose congruent with the mission of the Church and which transcends the purpose of the individuals that make them up." Canon 114.1

Parish

"A parish is a definite community of the Christian faithful established on a stable basis within a particular church; the pastoral care of the parish is entrusted to a pastor as its own shepherd under the authority of the diocesan bishop." Canon 515.1

Parish Director of Religious Education

The parish director of religious education is the professional religious educator who administers the parish religious education program according to diocesan norms.

Parish School

A parish school is a school operated and financed by a particular parish.

Parochial Vicar

"A parochial vicar or several of them can be associated with the pastor whenever it is necessary or suitable for duly implementing the pastoral care of the parish; parochial vicars are priests who render their services in pastoral ministry as co-workers with the pastor in common counsel and endeavor with him and also under his authority." Canon 545.1

Pastor

"The pastor is the proper shepherd of the parish entrusted to him, exercising pastoral care in the community entrusted to him under the authority of the diocesan bishop in whose ministry of Christ he has been called to share; in accord with the norm of law he carries out for his community the duties of teaching, sanctifying and governing, with the cooperation of other presbyters or deacons and the assistance of lay members of the Christian faithful." Canon 519

Policy

A policy is a guide for discretionary action.

Presbyteral Council

"A presbyteral council is to be established in each diocese, that is, a body of priests who are to be like a senate of the bishop, representing the presbyterate; this council is to aid the bishop in the governance of the diocese according to the norm of law, in order that the pastoral welfare of the portion of the people of God entrusted to him may be promoted as effectively as possible." Canon 495.1

Principal of a School

The principal is the professional educator who administers the school according to diocesan, state, and accrediting agency norms.

Private School

A private school is a school owned, operated and financed by a religious community or by a board of trustees.

Superintendent of Schools

The superintendent is the person delegated by the bishop to exercise executive power over the schools. The extent of the power is determined by the mandate of the diocesan bishop.

Vicar of Education

A vicar of education is a priest appointed by the bishop as an ordinary over educational matters within the diocese, that is, someone who possesses ordinary executive power over educational matters. (See Canon 476)

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